IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 152 of 2001
(Old No. 5072 of 1999)

R.S. Sharma, Officer under Suspension
Branch Manager (under suspension)
Union Bank of India
Tanakpur Branch
District Champawat
S/o Shri Chhotey Lal Sharma
R/o 15 Raja Vihar
Indra Nagar, Police Station Premnagar
Bareilly .... Petitioner

Vs

1. State of U.P.
2. Additional Chief Judicial Magistrate
   Khatima, Udham Singh Nagar
3. The Station House Officer
   District Champawat
4. Sri R.K. Verma
   Branch Manager
   Union Bank of India, Tanakpur Branch
   District Champawat .... Respondents

Sri Tumul Nailwal, learned counsel for the petitioner

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicant who is the accused in Criminal Case No. 80 of 1998 Ram Kumar Verma Vs R.S. Sharma under Sections 409, 420, 457, 468 and 471 of I.P.C. pending in the court of Additional Chief Judicial Magistrate, Khatima.

2. Brief facts of the case are that the First Information Report was lodged by one Ram Kumar Verma – respondent No. 4 in this writ petition stating therein that he is the Branch Manager of the Bank and certain matters pertaining to the misappropriations of money has come in his light in the Bank and these misappropriations were committed during the

tenure of the petitioner – R.K. Sharma when he was the Branch Manager of the Bank.

3. The matter was investigated by the police and the police ultimately came to the conclusion that it was the applicant who was responsible for the misappropriations of money. The Investigating Officer, therefore, submitted the chargesheet against the applicant before the court concerned. By way of this petition the proceedings in the case stated above have been put to challenge.

4. Heard Sri Tumul Nailwal, learned counsel for the petitioner, learned A.G.A. and perused the record.

5. I do not find any abuse of process of the court in this case. I am not supposed to embark upon an enquiry whether the allegations in the complaint are likely to be established by the evidence or not. While exercising the power under Section 482 Cr.P.C. I have to examine only whether the First Information Report or the complaint or the material collected by the prosecution taken on their face value and accepted in entirety, prima-facie constitutes an offence or make out a case against the accused who is that applicant in this case.

6. On the perusal of the material available on record, I come to the conclusion that there is a prima-facie case made out against the applicant to proceed further by way of the trial before the court concerned. I do not find any sufficient ground to stay the criminal proceedings pending in the court below.

7- The petition lacks merits and is liable to be dismissed.

8- Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

14.07.2006
ASWAL